



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

SYLVESTER ANTERRIO BOONE,
Petitioner,

vs.

WARDEN BENARD MACKIE,
Respondent.

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CIVIL ACTION NO. 0:15-1503–MGL-PJG

AMENDED ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING RESPONDENT’S MOTION FOR SUMMARY JUDGMENT,
AND DENYING PETITIONER’S PETITION

This case was filed as a 28 U.S.C. § 2254 action. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Respondent’s motion for summary judgment be granted, and Petitioner’s petition be denied . The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on December 15, 2015, and the Clerk of Court entered Petitioner's objections on January 26, 2016. The Court has reviewed the objections, but finds them to be without merit. Therefore, it will enter judgment accordingly.

In Petitioner's objections, he generally makes the same arguments to this Court that he has already made to the Magistrate Judge. The Magistrate Judge rejected them. For the same reasons, this Court rejects them, too.

The Magistrate analyzed Petitioner's contentions and agreed with the Post-Conviction Relief (PCR) court that Petitioner was unable to satisfy the *Strickland* test, which must be satisfied to prevail on an ineffective assistance of counsel claim. *See Strickland v. Washington*, 466 U.S. 668 (1984). The Court agrees with the Magistrate Judge and the PCR court that Petitioner had effective counsel, and that no Sixth Amendment violation occurred. In his objections, Petitioner has presented to this Court no reason to hold otherwise. Consequently, the Court overrules Petitioner's objections.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Petitioner's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court that Respondent's motion for summary judgment is **GRANTED**, and the petition is **DENIED**. All other pending motions are, therefore, **RENDERED MOOT**.

To the extent that Petitioner requests a certificate of appealability from this Court, that certificate is **DENIED**.

IT IS SO ORDERED.

Signed this 24th day of March, 2016, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.